

REMARKS

The claims are 11, 16-18, and 20-46. The non-elected claims and also non-elected subject matter in claim 11 are canceled without prejudice to applicants' rights.

Claim 27 is rejected under 35 U.S.C. § 112 as indefinite. The claim has been amended as suggested by the Examiner to render the rejection inapplicable.

Claims 11, 16-18, 20-25, 28-43, and 46 are rejected under 35 U.S.C. § 103 as obvious over Hernandez (ES 2,131,006) in view of Gebreselassie (United States Patent No. 6,379,654). The rejection is traversed. In footnote 2, the Examiner points out that incorporating enzyme in the external coating layer (which is the teaching of ES '006) is not excluded by applicants' claims. The amendment to claim 11 (which is supported by page 8, line 24 of the specification) makes it clear that enzyme is incorporated into the gum base, which is neither taught nor suggested by the external coating layer of ES '006. As previously argued by applicants, Hernandez recognized the problem of combining enzyme with gum base, which is why in ES '006 the enzyme is placed in the outer coating. As previously argued by applicants (and possibly because the enzyme is segregated in the outer coating away from the other ingredients), ES '006 does not teach an enzyme stabilizing agent. The Examiner's response is that the reference generally suggests a stabilizer. A general suggestion in a reference is not the standard for a rejection under 35 U.S.C. § 103. Applicants are not reciting a broad stabilizer but rather an enzyme stabilizer. ES '006 gives no indication of what the intended stabilizers are or what they are intended to stabilize. If they were intended to stabilize the papain, then ES '006 might have at least suggested that these unspecified stabilizers were to be incorporated into the outer coating. ES '006 is totally silent about any of this. The combination of Hernandez and Gebreselassie is traversed. ES '006 is directed to a chewing gum formulation; whereas US '654 is directed to a dentifrice containing a silica abrasive. As the Examiner recognizes, US '654 is silent about chewing gum. There is no basis for combining these references. The Examiner argues that it would be obvious from US '654 to incorporate a chelating agent or antioxidant to increase enzyme stability; however, as discussed above, there is no suggestion in ES '006 to incorporate an enzyme stabilizer at all. Only by applying hindsight, based on applicants' disclosure, can these references be combined. There is no guidance in either reference which would lead to the other.

Claims 26, 27, 44, and 45 are rejected under 35 U.S.C. § 103 as obvious over Hernandez (ES 2,131,006) in view of Gebreselassie (United States Patent No. 6,379,654), further in view of Witzel (United States Patent No. 4,238,475). The rejection is traversed. The combination of Hernandez and Gebreselassie has been discussed above and is again traversed. The same argument applies to the combination of Witzel and Gebreselassie. There is no basis for combining these references. Regarding the combination of ES '006 and US '475 a problem similar to that regarding the combination of the other two references arises. As with the general suggestion in ES '006 to use a stabilizer, here we have another general suggestion in ES '006 to use sweeteners and polishing agents. A general suggestion in a reference is not the standard for a rejection under 35 U.S.C. § 103. Furthermore, since the enzyme in ES '006 is located in the outer layer, whereas there is no outer layer in Witzel, it would be totally unknown from Witzel if the additives disclosed therein would have a negative (i.e., destabilizing) effect on the enzyme of ES '006. If the Examiner's argument (obvious to add known ingredients to known compositions and expect their known effects) is to have any validity, then the compositions in question would have to be substantially similar. In the case of Witzel and ES '006 the compositions are not at all alike. Therefore, the added ingredients of Witzel would not have a predictable effect on the composition of ES '006.

Claims 25, 28, and 29 are rejected under 35 U.S.C. § 103 as obvious over ES '006 in view of US '654), further in view of Rapp (United States Patent No. 6,180,143). The rejection is traversed. The combination of Hernandez and Gebreselassie has been discussed above and is again traversed. Further, the Examiner has made an erroneous presumption regarding the water content disclosed in ES '006. There is no teaching at all of any water in this reference. To the contrary, the ingredients list on page 7 totals to 100%, with no water included. If there is a water absorption problem with the sweeteners, it is presumed that the carnauba wax coating (see page 8 of ES '006) solves this problem. Therefore, there is no reason to include the sweetener substitutes of Rapp to the formulation of ES '006 to solve a problem which does not exist in the primary reference.

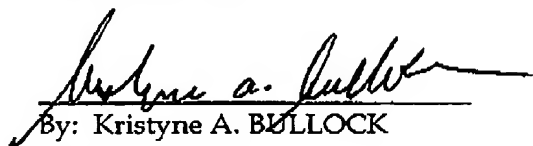
It is requested that the amendment be entered since in it deemed to place the claims in condition for allowance, and/or place the claims in better condition for

appeal. It is requested that the Examiner reconsider the rejections in view of the amendment and Remarks and that the case be passed to issue.

Respectfully submitted,

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